Appl. No. 10/806,966
Amdt. dated November 7, 2005
Reply to Office action of September 15, 2005

FEE STATEMENT

No additional fee is due because the number and type of newly added claims are the same as the number and type of originally presented, but now cancelled claims. Nevertheless, an appropriate authorization to charge or credit the deposit account of applicant's attorney is enclosed in the required duplicate original form -- to be used if necessary.

REMARKS/ARGUMENTS

Claims 1, 4 to 13, and 15 to 19 are in the application.

Claim 1 and 19 stand rejected under 35 U.S.C. 103 as being obvious in view of Foss and Kern. Claim 2 (now incorporated into Claim 1) stands rejected under 35 U.S.C. 103 as being obvious in view of Kern. Claim 13 stands rejected under 35 U.S.C. 103 as being obvious in view of Kern, Rehrigh, and Heiligenthal. Appropriate amendments have been made to overcome the rejections to Claims 1 and 19. Claim 1 has been amended to add the limitations of Claims 2 and 3. Claim 13 has been amended to add the limitations of Claim 14. Claim 19 has been amended to add the limitations of Claim 20. Consequently Claims 2, 3, 14 and 20 have been cancelled.

RESPONSE TO 35 U.S.C 103 REJECTIONS

Claims 1 stands rejected under 35 U.S.C. 103 as being obvious in view of Kern or Foss. These rejections are respectfully traversed.

The Kern structure teaches bumper blocks which are rigidly fastened to the frame of the dolly. An obviousness determination under 35 U.S.C. 103 for mechanical devices must include a consideration of the claimed combination and its physical effect or result. Kern does not teach applicants' movable bumper blocks, and cannot render the same obvious.

The Foss reference depicts a luggage rack, which is

completely unsuitable for applicants' purpose. Furthermore, Foss depicts rails, not blocks. There is no cantilever structure hinge, which applicants use to add strength to their device. Applicants' device can also be used on stairs, which is impossible for the Foss device. Thus, Foss cannot applicants' invention obvious.

Since an adjustable bumper block as defined in the claims of the application and as elucidated by the specification does not appear in Kern, this rejection is improper based on the Application of Magerlein, 602 F.2d, 366, 372, U.S.P.Q. (BNA) 473, 478 (C.C.P.A. 1973). "While patent claims limit the invention, and specification cannot be utilized to expand patent monopoly, claims are construed in light of specification and both are read with a view to ascertaining the invention." U. S. v. Adams, 383 U.S. 39, 48-49; 148 USPQ 479, 482 (1966). Throughout the specification the applicant discloses that the bumper blocks have *the capability of adjusting from one position to another* in order to adjust either the height, width or length of the platform. Applicant's bumper block adjustability advantage is clearly disclosed, plainly discussed and heavily emphasized in applicant's claims and specification.

Accordingly, Kern does not render the applicants' bumper blocks obvious. In contrast, the invention in Kern teaches a rigid and fixed bumper block attachment. More particularly, the specification in Kern teaches that the bumper block should be bolted to the frame of the dolly, which renders the Kern blocks immovable. While the Kern invention contemplates height adjustments through the use of multiple bumper blocks, none of the bumper blocks are capable of adjusting from one position to another in order to adjust a dimension of the dolly. Instead the adjustment is accomplished by rigidly fixing a plurality of bumper block to the frame. There is also no teaching as found in applicant's claims of any structure in Kerns having the advantage of adjustable bumper blocks. There being no structure which achieves the same or similar physical effect or result, the applicant respectfully submits that the invention under the amended claim 1 is nonobvious and

requests that the examiner withdraw the rejection of former Claim 2 now Claim 1 as amended.

Next, Claim 13 stands rejected under 35 U.S.C. 103 as being obvious in view of Kern, Rehrig, and Heiligenthal. Not only are these references improperly combined, even if these references are assumed combinable, applicants' invention still is not taught. The only teaching of record to combine the casters and locking mechanism of Heiligenthal, the composite material of Kern and the coated wood in Rehrigh is found in applicants' specification. Such a procedure is not a sufficient teaching to combine these references.

Additionally, even under the presumption that these references are combinable, the applicants' invention is still not taught. Rehrigh column 1, lines 20-32 teaches a dolly made out of "relatively heavy, solid wood rectangles or wood slats". Claim 13 specifically claims a dolly made out of "light weight" material. In addition, this light weight material is composed of "resin coated balsa wood", or a "resin fabric covering balsa wood". The Rehrigh reference mentions neither of these materials. Rather, the Rehrigh reference teaches a dolly made out of a heavy wood.

Not only does the Rehrigh reference not perform the light weight function, but additionally the surface of the dolly must often be equipped with "carpeting or rubber cap" in order to protect the dolly from the loads it carries. The applicant's specification specifically emphasizes that the resin coated balsa wood was chosen because of its structural strength discovered by applicants' research. As a result, the applicant's dolly has no need for carpeting or a rubber cap. Furthermore, the Rehrigh wood does not provide structural strength as applicants' device does. For the aforementioned reasons, applicant respectfully submits that the claimed invention is nonobvious and requests the withdrawal of the rejection of claim 13.

CONCLUSION

Accordingly, all rejections having been overcome by amendment or traversed by remarks, reconsideration and

allowance of the instant application is respectfully requested. Applicant's attorney remains amenable to assisting the Examiner in the allowance of this application.

Applicant respectfully requests that a timely notice be issued in this case.

Respectfully submitted,

By: _____

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I hereby certify that this correspondence is being deposited by facsimile to (571)273-8300 addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on or before November 15, 2005.

_____

Mathew R. P. Perrone, Jr. -- Depositor

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PRIMARY EXAMINER

Appl. No.	:	10/806,966
Applicant	:	Berna et al.
Filed	:	March 23, 2004
Title	:	ADJUSTABLE LIGHTWEIGHT PLATFORM DOLLY
TC/A.U.	:	3618
Examiner	:	Cynthia Francisca Collado
Docket No.	:	Y3.0124

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

DEPOSIT ACCOUNT AUTHORIZATION

No fee is believed due with the enclosed amendment.

Nevertheless, you are hereby authorized to charge any deficiencies in that fee determination to my **deposit account number 16-1375.**

A duplicate original of this authorization is enclosed.

Mathew R. P. Perrone, Jr.

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